



Malmö
28 June 2000

EUROPEAN PATENT OFFICE
DE-80298 MÜNCHEN

Handled by
Bo-Göran Wallin

Our ref.
PC-EP-2950767

Attention
DG 2

European Patent Application No 94915725.9-2303/0698162
in the name of VÄLINGE ALUMINIUM AB

Dear Sirs,

This is in response to your invitation of 17 March 2000 to submit comments on the intervention filed by the intervener E.F.P. Floor Products Fussböden GmbH (hereinafter "E.F.P.").

1 Background events and the procedure up to grant

1.1 The Patent

1.1.1 European patent application No. 94915725.9 in the name of Vålinge Aluminium AB (hereinafter "Vålinge"), was filed on 29 April 1994 as an International Patent Application (WO94/26999, identified as document D39 in the letter of 24 January 2000 filed by the proprietor), claiming priority from SE 9301595.6 (identified as document D40 in the same letter) filed on 10 May 1993, and was granted under No. 0 698 162 on 16 September 1998 (hereinafter "the Patent"). Vålinge's PCT application became public available on 24 November 1994.

1.1.2 Art. 115 EPC observations were filed by the first Opponent "Unilin".

1.1.3 Within the prescribed nine month period, oppositions were filed by Unilin Decor N.V. (hereinafter "Unilin") and Kronotex Fussboden GmbH (hereinafter "Kronotex").

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- 1.1.4 Comments on these two oppositions were submitted in the above mentioned letter of 24 January 2000.
- 1.1.5 It should be noted that among the 38 (!) prior-art references now cited in the two oppositions and the intervention, 12 references have already been brought to the attention of the Examining Division by way of three observations under Article 115 EP filed by the first Opponent "Unilin". The Examining Division did not consider any of these references as relevant and, accordingly, did not raise any patentability objections in view thereof.
- 1.1.6 In order not to burden the file with repetitions, reference is being made to the above mentioned letter of 24 January 2000 both for further details in relation to the background events and procedure up to grant and for the proprietor's view on the invention (section 2) and the interpretation of the claims in the present patent (section 3).

2 Detailed comments on documents cited by E.F.P.

2.1 SE 450 141 (= WO 8402155, i.e. document D29)

- 2.1.1 E.F.P. has cited this Swedish patent which is mentioned as prior art in the introductory part of the specification of the present patent. This Swedish patent corresponds to document D29, i.e. WO 8402155, cited by the opponents.
- 2.1.2 The invention remedies a number of disadvantages associated with prior-art mechanical joints of the type known from SE 450,141 (and the corresponding WO 94/02155) cited in the patent, wherein a conventional tongue-and-groove connection forms a *vertical* mechanical connection along adjacent long edges, and a plurality of spaced-apart U-shaped spring clips form a *horizontal* mechanical connection along the long edges. During the assembling procedure, the U-shaped spring clips are pushed into pairs of locking grooves provided in the rear surface of the panels. The spring clips are biased so as to clamp the floor panels tightly together. Disadvantages of using such prior-art spring-clips are e.g. (col. 3, lines 21-44):
- (i) The floor panels are horizontally joined together at their long edges only. No clip connection is provided on the short sides, i.e. the short sides of the panels are *not* mechanically connected to each other in the horizontal direction.
 - (ii) Floor laying using clips is time-consuming.

- (iii) It is not possible to disassemble the floor panels without having access to their undersides.
- (iv) Subsequent adjustment of the panels in their longitudinal direction is a complicated operation in connection with laying, since the biased clips urge the panels tightly against each other.
- (v) Biased clips of this type cannot be used for joining panels of such a small thickness as 3 mm.
- (vi) This technique is usable only in those cases where the floor panels are resting on underlying joists with the clips placed therebetween. For thin floors to be laid on a continuous, flat supporting structure, such clips cannot be used.

2.1.3 Thus, SE 450,141 and the corresponding WO 94/02155 neither disclose the present invention nor makes it obvious to the man skilled in the art.

2.2 DE 29 17 025 (=document D2)

- 2.2.1 E.F.P. has also cited document D2, DE 29 17 025, against the novelty of subject matter of claim 1. It is submitted that the invention as claimed is novel and involves an inventive step in respect of DE 29 17 025.
- 2.2.2 DE 29 17 025 is related to rain-proof external wall claddings made of profiled aluminium strips or sheets, which is technically significantly remote from the present system and the problems to be solved thereby, both in structural and functional terms.
- 2.2.3 Claim feature (a) mentioned in section 2.5.1 of the proprietor's letter of 24 January 2000, is not disclosed since profiled aluminium strips are not panels within the meaning of the present invention.
- 2.2.4 Claim feature (d) is not disclosed in DE 29 17 025 since there is no locking groove which is open at the rear of a groove panel.
- 2.2.5 The profiles, when in their assembled state, cannot be disassembled by angling the right profile in the figure upwardly away from the left profile. If one should attempt to perform such an angling movement by lifting the right panel, the members 202' and 100 would prevent such an attempt. Any attempt to force the profiles apart by such angling-up of the right profile would lead to a bending of the profiles and, consequently, a per-

manent deformation. As mentioned in the proprietor's letter of 24 January 2000 (section 2.3), the invention makes it possible to disassemble and reassemble panels without causing any damage to the joint system.

2.2.6 Furthermore, the profiles of DE 29 17 025 are not locked in the D2 direction, i.e. in the direction right-left in the drawings. Instead, there a large gap is present to ensure the required length equalisation and adoption to particular installing situations.

2.2.7 Thus, DE 29 17 025 neither discloses the present invention nor makes it obvious to the man skilled in the art.

2.3 A combination of DE 29 17 025 and SE 450,141 (or WO 94/02155)

2.3.1 A combination of these two documents will not result in a system for providing a joint along adjacent joint edges of two building panels as defined in claim 1 of the present patent since such a combination would result in a system lacking a number of the features mentioned in this claim. In fact, such a combination is not possible of technical reasons.

2.3.2 Thus, the subject-matter of claim 1 of the present patent involves an inventive step.

3 Comments on the allegations of E.F.P. against the dependent claims

3.1.1 At the present, no detailed counter-argumentation is submitted in respect of the allegations in relation to the validity of the dependent claims.

3.1.2 However, it should be noted that E.F.P. has failed to present any combination of prior-art documents and only argued that the features presented in the dependent claims are obvious for the man skilled in the art.

3.1.3 Reference is being made to the Guidelines (C-IV, 9.3a) where the following is stated:

The invention claimed must normally be considered as a whole. Thus, it is not correct as a general rule, in the case of a combination claim, to argue that the separate features of the combination taken by themselves are known or obvious and that "therefore" the whole subject-matter claimed is obvious.

3.1.4 It is submitted that all of the dependent claims are valid, being dependent from and further limiting the valid independent claim 1.

4.1 In respect of other comments made by the Intervener, I refer to comments made in the above-mentioned letter of 24 January 2000.

5.1.1 It is primarily requested that this intervention and the two oppositions be rejected and, accordingly, the Patent be upheld as granted.

Yours faithfully,

Bo-Göran Wallin
Authorised Representative
AWAPATENT AB

Three copies of these observation
Acknowledgement copy (which please return)